

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA**

LINDA L. KITZMILLER and  
RICHARD C. KITZMILLER, her husband,

Plaintiffs,

v.

Case No 2:05-CV-22

JEFFERSON SUPPLY COMPANY,

Defendant and  
Third-Party Plaintiff,

v.

THE BUTCHER COMPANY,  
a Delaware corporation,

Third-Party Defendant.

**ORDER/OPINION**

On March 10, 2006, Defendant and Third-Party Plaintiff Jefferson Supply Company ("Jefferson") filed its "Motion to Extend Scheduling Order Deadlines and to Increase Number of Permissible Depositions" [Docket Entry 112]. Plaintiffs Linda and Richard Kitzmiller ("Plaintiffs") filed their Response on March 17, 2006 [Docket Entry 115]. On March 30, 2006, filed its "Motion for Inspection of Property Pursuant to rule 34" [Docket Entry 116]. No Responses to this Motion were filed.

The Court held a hearing on these motions on March 21, 2006. Plaintiffs appeared by counsel Guy Bucci and Nelson Michael; Jefferson appeared by counsel, Michael Crim; and Defendant The Butcher Company ("Butcher") appeared by its counsel Erik Legg.

**Motion to Extend Scheduling Order Deadlines and to  
Increase Number of Permissible Depositions**

Jefferson moves the Court to extend by 120 days all deadlines set forth in the Scheduling Order entered in this matter on May 13, 2005, and to increase the number of depositions a party can take to a maximum of thirty (30). In support of its Motion, Jefferson argues there are still numerous depositions which need to be taken. Plaintiffs agree to some extension of discovery, but object to four months. Plaintiffs also object to any increase in the number of depositions, stating there are only two groups of witnesses, and even within those groups testimony would be cumulative.

For reasons apparent to the Court and stated on the record of the hearing in this matter, the Court extends the discovery deadline fifty (50) days (from the current close of discovery, April 1, 2006). The Court shall allow counsel for the parties additional time to confer regarding the issue of additional depositions. Counsel are to make a good faith effort to agree on a number of additional depositions. If counsel agree on a number of depositions, they shall submit an agreed order to the Court before April 11, 2006. Counsel will notify the Court if they are unable to reach an agreement, and the Court will hold a telephonic hearing on April 11, 2006, to resolve the issue.

For docketing purposes, Jefferson's Motion to Extend Scheduling Order Deadlines and to Increase Number of Permissible Depositions [Docket Entry 112] is GRANTED in PART.

**Motion for Inspection of Property**

Jefferson also moves the Court for Inspection of Property pursuant to Rule 34. No responses to the Motion were filed. At the hearing counsel for Plaintiffs stated Plaintiffs did not object to the motion and had never opposed a property inspection. For reasons stated on the record and apparent to the Court, Jefferson's Motion for Inspection of Property Pursuant to Rule 34 [Docket Entry 116]

is **GRANTED**.

The Clerk of the Court is directed to send an authenticated copy of this Report and Recommendation to counsel of record.

DATED: April 6, 2006.



JOHN S. KAULL  
UNITED STATES MAGISTRATE JUDGE